

**U S Army Corps
of Engineers**
Huntington District

Public Notice

In reply refer to Public Notice No.

Issuance Date: March 16, 2005

200500214

Stream: U/T Russell Fork

Closing Date: April 5, 2005

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Huntington District

ATTN: CELRH-OR-F Public Notice No. (*reference above*)

502 Eighth Street

Huntington, West Virginia 25701-2070

Phone: (304) 399-5710

PUBLIC NOTICE: The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

REGULATORY PROGRAM: Since its early history, the U.S. Army Corps of Engineers (Corps) has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the Corps Regulatory Program.

SECTION 10: The Corps is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate all work or structures in or affecting the course, condition or capacity of navigable waters of the United States (U.S.). The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

SECTION 404: The Corps is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharge of dredged and fill material into all waters of the United States, including wetlands. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

TO WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act. This notice serves as the Corps of Engineers' request to the West Virginia Department of Environmental Protection to act on Section 401 Water Quality Certification for the following application.

APPLICANT: Orders Construction Company
Post Office Box 1448
Saint Albans, WV 25177

LOCATION: The proposed project is located on the Barboursville WV USGS quadrangle, in an unnamed tributary of Russell Creek, between State Route 60 and Interstate 64, near Huntington, Cabell County, West Virginia, as depicted on Attachment 1. The project is further described on Attachments 2 and 3. The unnamed tributary of Russell Creek flows into Guyandotte River, a navigable (Section 10) water of the United States.

DESCRIPTION OF THE PROPOSED WORK: The proposed project would involve placing 300 linear feet of 36-inch diameter culvert within the stream and placing approximately 350 cubic yards of broken concrete and 5,500 cubic yards of earthen fill material above the culvert. The fill material would impact 300 linear feet (0.03 acre) of waters of the U.S. The culvert would be an extension of an existing 36-inch culvert located under Darnell Road (County Road 60/2). The concrete material would originate from bridge replacement along Interstate 64 (I-64). The excess earthen material would originate from improvements to road shoulders along Darnell Road and earthmoving along I-64 during lane expansion construction. The proposed fill site would be fully within the I-64 right-of-way.

According to the applicant, the purpose of the project is to dispose of excess material generated by I-64 road improvements.

ALTERNATIVES ANALYSIS: This project is not considered to be water dependent; therefore, the applicant is required to show that other less damaging practicable alternatives are not available that would achieve the applicant's goal. No permit will be issued until our review of the alternative analysis clearly shows that upland alternatives are not available to achieve the applicant's goal.

MITIGATION PLAN: The applicant has submitted a conceptual compensatory mitigation plan (CMP) to compensate for permanent impacts to waters of the U.S. regulated by the Department of the Army, Corps of Engineers. The applicant proposes to restore and enhance the aquatic resources along 400 linear feet of this stream just below the proposed fill site. The bed and banks along this section of stream is presently lined with a failed concrete gutter (part of the I-64 drainage system), causing bank erosion and flows underneath the concrete. The applicant conceptually proposes to remove the concrete lining from the stream bank and bed and re-shape the banks. Rock riprap would be placed along both banks for erosion protection. The stream bed would be reshaped to a more natural stream, with random boulders placed as in-stream habitat enhancement structures. All disturbed areas would be re-vegetated and would include willow live stakes planted at six-foot spacing. All concrete would be placed within the proposed fill area and covered by a minimum two feet of soil.

WATER QUALITY CERTIFICATION: A Section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain certification from the West Virginia Department of Environmental Protection.

HISTORIC AND CULTURAL RESOURCES: A copy of this public notice will be sent to the West Virginia Division of Culture and History for their review. Additional comments concerning archeological sensitivity of a project area should be based upon collected data.

ENDANGERED/THREATENED SPECIES REVIEW: This public notice serves as a request to the U.S. Fish and Wildlife Service for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

PUBLIC INTEREST REVIEW AND COMMENT: Any person who has an interest that may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity. This application will be reviewed in accordance with 33 CFR 320-331, the Regulatory Program of the U. S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404(b)(1) of the CWA. Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a

permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof; of those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.

SOLICITATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. For accuracy and completeness of the administrative record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

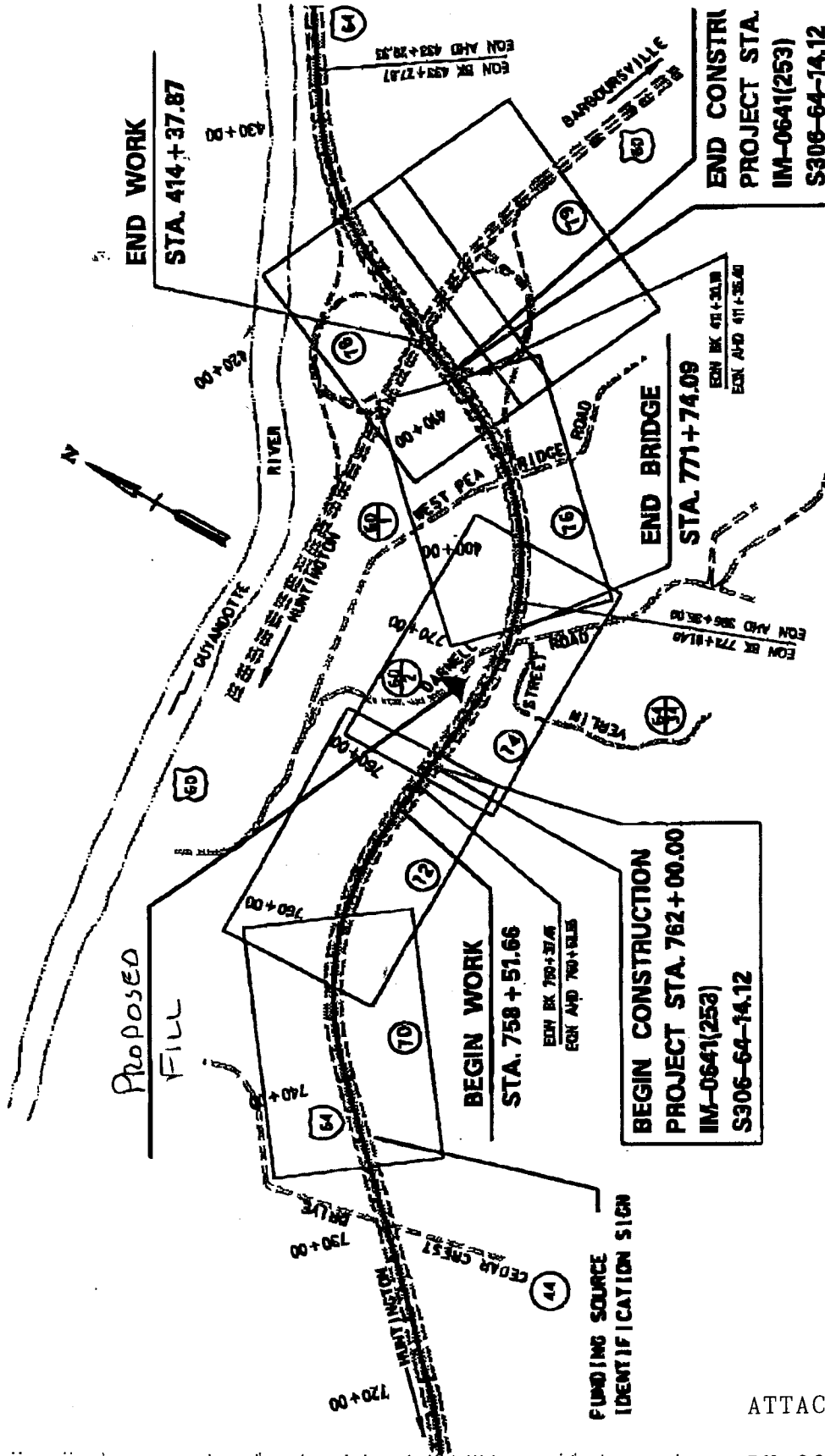
CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to Richard Berkes, Regulatory Specialist, South Regulatory Section, CELRH-OR-FS, U. S. Army Corps of Engineers Huntington District, 502 Eighth Street, Huntington, West Virginia 25701-2070. Please note names and addresses of those who submit comments in response to this public notice may be made publicly available. Thank you for your interest in our nation's water resources. If you have any questions concerning this public notice, please call Richard Berkes of the South Regulatory Section at 304-399-5710.



Ginger Mullins, Chief
Regulatory Branch

(W)

LOCATION Map



ATTACHMENT 1

PN 200500214

RA 770+39
 RPE 1
 WITH 1
 CONNECTION:
 RT STA 772+25 TO STA 397+00
 REMOVE 239 FT OF EXISTING
 GUARDRAIL.
 RA 397+00
 RPE 1
 WITH 1
 T.E.T.
 397+00
 SECTION.
 K 1
 TO STA. 769+10
 BE REMOVED
 AND
 GRADING
 F.B. OUCH
 DUMPED ROCK GUTTER
 IS TO STA-769+35

ORDERS CONSTRUCTION Co., Inc.
 PLAN VIEW

13+21.50	RT	END GUARDRAIL. BEGIN THREE BEAM CONNECTION
13+91.25	RT	END THREE BEAM CONNECTION. BEGIN 42" BARRIER TRANSITION
14+00	RT	BEGIN 42" BARRIER
15+45	RT	END 42" BARRIER. BEGIN BARRIER TRANSITION
15+71.75	RT	END BARRIER TRANSITION. BEGIN THREE BEAM CONNECTION
15+81.50	RT	END THREE BEAM CONNECTION. BEGIN GUARDRAIL
16+10	RT	END GUARDRAIL. BUFFER END TREATMENT. 4 FT FLARE
13+42.50	LT	BEGIN GUARDRAIL. BUFFER END TREATMENT. 4 FT FLARE
14+07.50	LT	END GUARDRAIL. BEGIN THREE BEAM CONNECTION
14+33.75	LT	END THREE BEAM CONNECTION. BEGIN 42" BARRIER TRANSITION
14+38	LT	BEGIN 42" BARRIER
15+00	LT	END 42" BARRIER. BEGIN BARRIER TRANSITION
15+09.15	LT	END BARRIER TRANSITION. BEGIN THREE BEAM CONNECTION
15+27.50	LT	END THREE BEAM CONNECTION. BEGIN GUARDRAIL
16+45	LT	END GUARDRAIL. BUFFER END TREATMENT. 4 FT FLARE

DARNELL ROAD CURVE DATA
 PI STA 16+82.00
 A = 40°53'40.00" LT.
 P = 18°00'00.00"
 R = 118.31
 L = 271.75
 E = 21.51

DARNELL ROAD CURVE DATA
 PI STA 770+39.00
 A = 57°20'39.00" RT.
 P = 15°00'50.00"
 R = 381.97
 L = 210.62
 E = 54.22

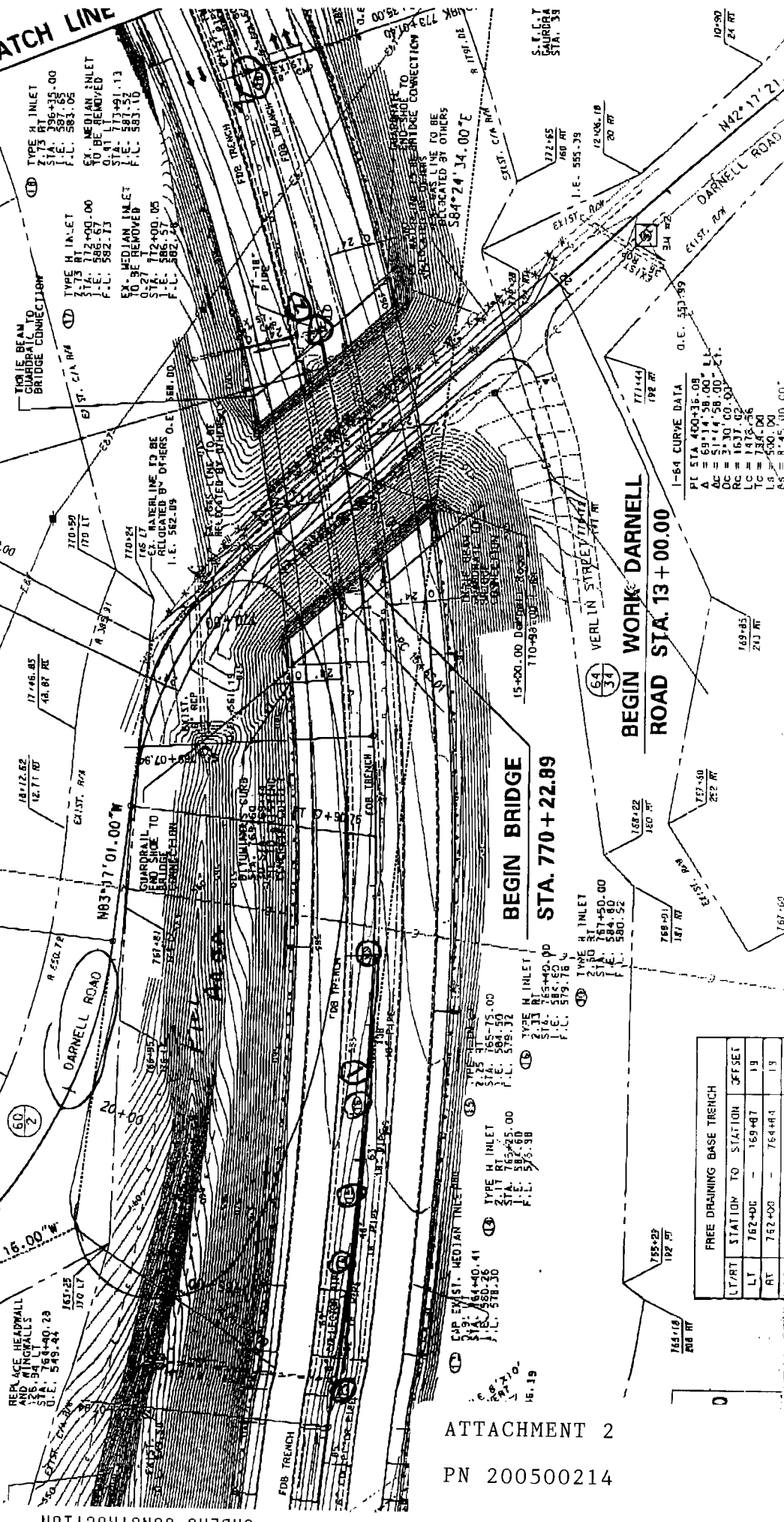
END WORK DARNELL
 ROAD STA. 17+00.00

END BRIDGE
 STA. 771+74.09

BEGIN BRIDGE
 STA. 770+22.89

BEGIN WORK DARNELL
 ROAD STA. 13+00.00

MATCH LINE



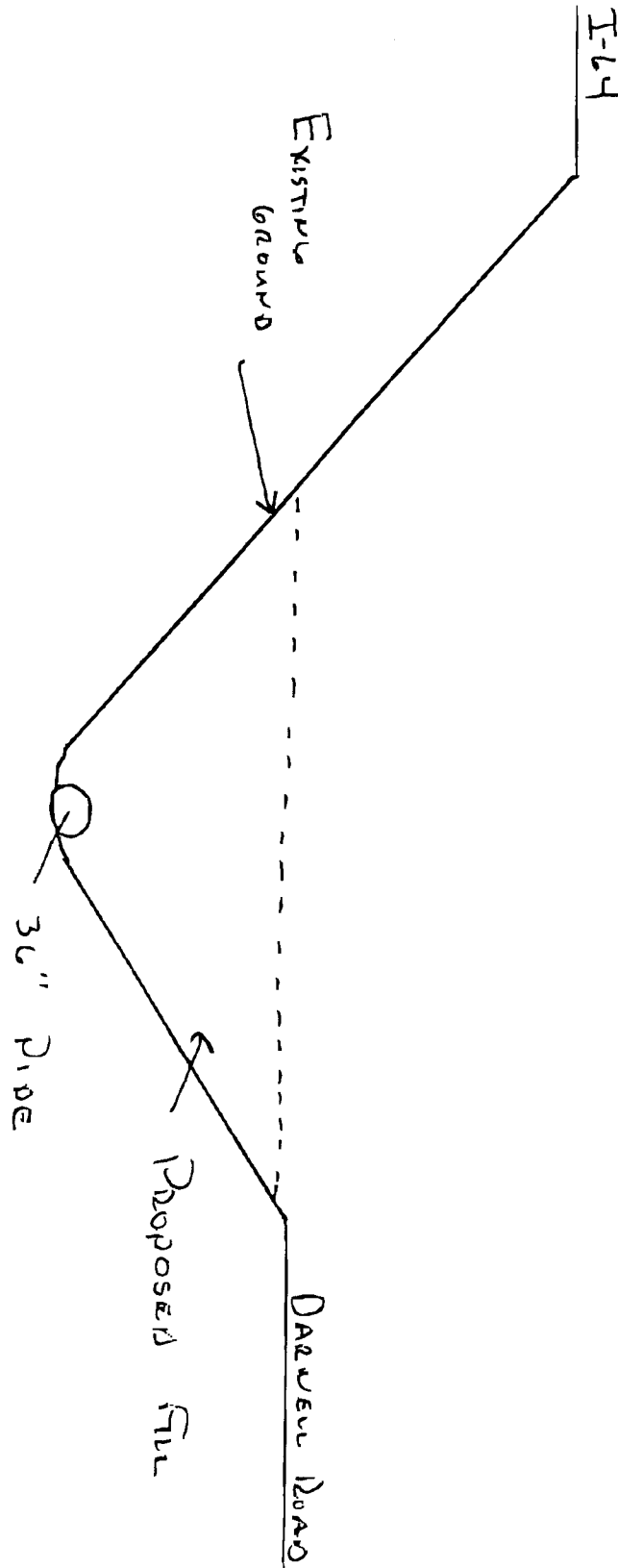
LT/RT	STATION TO	STATION	OFFSET
LT	762+00	-	169+47
RT	762+00	-	764+44



POST OFFICE BOX 1448 • SAINT ALBANS, WV 25177

PROJECT DARKEE ROAD

SHEET ____ OF ____ DATE ____



ATTACHMENT 3

PN 200500214